

App. No. 10/757,942
Attorney Docket 3016.2.7 NP

Amendments to the Drawings

None

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Remarks

Applicant thanks the Examiner for the Written Office Action. In particular, the Applicant thanks the Examiner for consideration of the Application and citation of additional art.

With regard to the substantive portion of the Written Office Action, Claims 1 – 7 were rejected and Claims 1 and 4 were objected to because of informalities. In particular, Claim 3 was rejected under 35 USC § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Further, Claims 1, 3 and 4 were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,611,462 to Barks. Still further, Claims 2 and 5 – 7 were rejected under 35 USC § 103(a) as being unpatentable over Barks in further view of U.S. Patent No. 6,749,027 to Crabtree et al. Still yet further, Claim 5 was rejected under 35 USC § 103(a) as being unpatentable over Barks in view of U.S. Patent No. 3,949,611 to Watt.

In response to the Written Office Action, Claims 1, 3, 4, and 6 are amended. Claims 2 and 5 are canceled. Claims 8 – 16 are new. Also, the specification is amended to include additional terms presented in the claims. The objections and rejections of the Written Office Action are addressed as follows.

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Claim Objections

Claims 1 and 4 are amended to correct the typographical errors described in the Written Office Action. Accordingly, the Applicant respectfully requests withdrawal of the corresponding objections.

Claim Rejections – 35 USC § 112

Claim 3 is amended to more particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Accordingly, the Applicant respectfully traverses the rejection of Claim 3 under 35 USC § 112.

Claim Rejections – 35 USC § 102

Claims 1 and 4 are amended to include limitations not disclosed by Barks. Claim 3 depends from Claim 1. Accordingly, the Applicant respectfully traverses the rejection under 35 USC § 102 of Claims 1, 3, and 4.

Claim Rejections 35 USC § 103

Claims 1 and 4 are amended to include the limitations of Claims 2 and 5 respectively. Accordingly, claim rejections asserted against Claims 2 and 5 apply to amended Claims 1 and 4. The Applicant respectfully disagrees with the rejections of Claims 2 and 5 – 7 under 35 USC § 103. Therefore, the Applicant presents the following arguments. First, the Applicant asserts that a rejection under 35 USC § 103(a) is not appropriate wherein Barks and Crabtree do not contain all the limitations of Claims 2 and 5 – 7. Second, the Applicant asserts that a rejection under 35 USC § 103(a) is not

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appropriate wherein Barkes in view of Watt does not include all the limitations of Claim 5 when Claim 5 is considered as a whole. Third, the Applicant asserts that an obviousness rejection of Claim 5 by Barkes in view of Watt is improper wherein limitations of Watt must be rearranged. Fourth, the Applicant asserts that Watt is not appropriate art for a 35 USC § 103(a) rejection of Claim 5 wherein Watt is not analogous art.

First, the Applicant asserts that a rejection under 35 USC § 103(a) is not appropriate wherein Barkes and Crabtree do not contain all the limitations of Claims 2 and 5 – 7. “To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” MPEP 2143.03. In particular, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” MPEP 2143.03 citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

The Written Office Action asserts that Barkes discloses all of the limitations of the claims except for at least three chamber plugs with a filter mechanically fastened to an inlet chamber plug. Also, the Written Office Action asserts that Crabtree discloses a mixing block having a chamber plug (35) and filter (34). Finally, the Written Office Action asserts that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mixing block of Barkes with any number of the plug and filter of Crabtree in order to filter the mixing fluids.

The Applicant respectfully notes that neither Barkes nor Crabtree include the limitations of at least three individual chamber plugs, which are removably fastened to the mixing block housing to allow for manual visual inspection, cleaning, and adjustment

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of the inlet and mixing chamber. Both Barks and Crabtree require disassembly of the an inlet to allow for manual visual inspection, cleaning, and adjustment. There are no chamber plugs, distinct from inlet assemblies themselves, disclosed in either Barks or Crabtree. Wherein no chamber plugs are included in Barks and Crabtree, the Applicant respectfully traverses the rejection of Claims 2 and 5 – 7 under 35 USC § 103(a) by Barks in view of Crabtree.

Second, the Applicant asserts that a rejection under 35 USC § 103(a) is not appropriate wherein Barks in view of Watt does not include all the limitations of Claim 5 when Claim 5 is considered as a whole. “To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” MPEP 2143.03. In particular, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” MPEP 2143.03 citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Further, “[i]n determining the differences between the prior art and the claims, the question under 35 USC 103 is not whether the differences themselves would have been obvious, but whether the claims invention as a whole would have been obvious.” MPEP 2141.02 (emphasis in original).

The Written Office Action asserts that Barks discloses all of the limitations of the claims except for at least three chamber plugs with a filter mechanically fastened to an inlet chamber plug. Also, the Written Office Action asserts that Watt discloses a mixing block having a chamber plug (48) for the purpose of inspecting the inside of the mixing block. Finally, the Written Office Action asserts that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the

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mixing block of Barkes with any number of the plug of Watt in order to allow for visual inspection of the inside of the mixing block.

The Applicant respectfully notes that the disclosure of Watt is of a sample collection container, not the mixing block of Claim 5. In particular, only a single inlet introducing a single fluid is disclosed. Further, the inspection port of Watt is for visual inspection of an interior of an enclosure, not of a mixing chamber and not of inlet chambers, as required by Claim 5. The Applicant notes the case of *Schneck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) as cited in MPEP 2141.02, wherein an inventor eliminated a need for dampening via a one-piece gapless support structure. It was argued that the invention was obvious as making integral what had been made in four bolted pieces, a well established doctrine of obviousness. However, the court indicated that looking at the invention as a whole and "[b]ecause that insight was contrary to the understanding and expectations of the art, the structure effectuating it would not have been obvious to those skilled in the art." Like the invention in *Schneck*, the insight presented in Claim 5 is contrary to the understanding and expectations of the art, and accordingly, the structure effectuating it would not have been obvious to those skilled in the art. In particular, the present understanding of the art is to disassemble an inlet port assembly in order to view, clean, and/or adjust. Contrarily, Claim 5 provides at least three access ports configured to eliminate an established need in the art, namely, need to disassemble the inlet port. Therefore, just as the invention in *Schneck*, the invention of Claim 5 is not obvious when considered as a whole.

Further, wherein the Written Office Action asserts that any number of the access ports of Watt could be added to the mixing block of Barkes, the Applicant respectfully

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notes that the mere existence of the access ports of Claim 5 is not the sole limitation of Claim 5 and the access port of Watt does not satisfy the limitations of allowing manual visual inspection, cleaning, and adjustments of the first, second, and mixing chambers. Accordingly, the Applicant respectfully traverses the rejection of Claim 5 under 35 USC § 103(a) by Barks in view of Watt.

Third, guidance is given from MPEP 2144.04(VI)C in citing *Ex Parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984), wherein is stated that "[t]he mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims on appeal is not by itself sufficient to support a finding of obviousness." The Written Office Action calls for duplication and rearrangement of parts of Watt to be combined with the mixing block of Barks. In particular, the chamber plug/port of Watts does not comprise structure sufficient to allow manual visual inspection, cleaning and adjustment of the first, second, and mixing chambers. Rearrangement of the parts of Watts would be required. Accordingly, such cannot be the foundation of an obviousness rejection. Therefore, the Applicant respectfully traverses the rejection of Claim 5 under 35 USC § 103(a) by Barks in view of Watt.

Fourth, the Applicant asserts that Watt is not appropriate art for a 35 USC § 103(a) rejection of Claim 5 wherein Watt is not analogous art. In particular, "[i]n order to rely on a reference as a basis for rejection of an applicants invention, there reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned." MPEP 2141.01(a) citing *In re Otiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

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Further, “[w]hile Patent Office Classifications of references and the cross-references in the official search notes >of the class definitions< are some evidence of “nonanalogy” or “analogy” respectively, the court has found “the similarities and differences in structure and function of the inventions to carry far greater weight.” MPEP 2141.01(a) citing *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973). While Claim 5 relates to mixing blocks, Watt relates to sample collecting containers. Each are very different in both structure and function. Watt relates to holding static fluid amounts from single sources, Claim 5 relates to mixing fluid flows from at least two sources. Further, there is only a single chamber in Watt, while Claim 5 relates a plurality of chambers each having different functions. Accordingly, Watt is not analogous art. Therefore, the Applicant respectfully traverses the rejection of Claim 5 under 35 USC § 103(a) by Barks in view of Watt.

Conclusion


Claims 1 and 4 are amended to include the limitations of 2 and 5 respectively. Claims 2 and 5 are cancelled. Claim 6 is amended to depend from Claim 4. Claims 8 – 16 are new. The additional term “flow control device” is included in the specification and supported by the original specification.

For these reasons, it is believed that none of the prior art teaches the claimed invention. Furthermore, it is believed that the foregoing amendment has adequate support in the specification, and accordingly there should be no new matter. Applicant believes the pending claims have addressed each of the issues pointed out by the Examiner in the Office Action. In light of the foregoing amendment, the claims should

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be in a condition for allowance. Should the Examiner wish to discuss any of the proposed changes, Applicant again invites the Examiner to do so by telephone conference.

Respectfully Submitted,


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